

Remarks

Claims 1-22 are currently pending in the patent application. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited reference.

The Office Action dated April 12, 2007 listed the following new rejections: Claims 1-22 stand rejected under 35 U.S.C. § 112(2) with specific reference to claims 2-4; and claims 1-22 stand rejected under 35 U.S.C. § 102(a) over Brophy *et al.* (U.S. 6,782,412).

Applicant respectfully traverses the Section 112(2) rejection of claims 1-22 based upon the use of the term “adapted to” because “adapted to” is clear and has come to be a commonly used term in claiming an invention. A brief review of the U.S. Patent Office’s own database indicates that the term “adapted” has been used in the claims of over 100,000 issued patents in recent years. In view of the foregoing, Applicant contends that the scope of the claims is ascertainable and therefore the Section 112(2) rejection based upon the term “adapted to” should be withdrawn.

Applicant respectfully traverses the Section 112(2) rejection of claims 2-4 based upon the lack of antecedent basis for the term “the call announce.” Applicant submits that antecedent basis for the call announce can be found in Claim 2 at line 2 (“the computer is adapted to announce an incoming call”). Applicant notes that explicit antecedent basis is not required. *See* M.P.E.P. § 2173.05(e). Therefore, the Section 112(2) rejection of claims 2-4 is improper and Applicant requests that it be withdrawn. Applicant notes that a minor amendment has been made to claim 3 to correct a typographical error.

Applicant notes that the instant Office Action indicates that the rejection based upon the Brophy reference is under Section 102(a). *See, e.g.*, the bottom of page 7 of the instant Office Action. Applicant assumes that the instant Office Action intended the rejection to be under Section 102(e), as the Brophy reference does not qualify as prior art under Section 102(a).

Applicant respectfully traverses the Section 102(e) rejection of claims 1-22 because the claimed invention was reduced to practice prior to the reference date of Brophy (*i.e.*, the filing date of Aug. 24, 1999), as evidenced by the 37 C.F.R. § 1.131 Declaration submitted herewith, showing correspondence between the claimed invention and a document entitled 8x8’s IP Telephony Products (label Exhibit B) dated before Aug. 24, 1999. Therefore, Applicant submits that the Brophy reference is not prior art under Section 102(e).

Accordingly, Applicant requests that the Section 102(e) rejection of claims 1-22 be withdrawn.

Applicant has submitted this response accompanied by an attached 37 C.F.R. § 1.131 Declaration, which demonstrates that the filing date of the Brophy reference does not predate the invention date of the claimed invention. This § 1.131 Declaration has been executed by Paul Voois, an inventor of the subject matter of the claimed invention and the party qualified to submit this Declaration under 37 C.F.R. § 1.47. Applicant notes that accompanying this Declaration are portions of a document entitled IntraSwitch (labeled Exhibit A), which demonstrate that the IntraSwitch document was prepared per a contact dated before Aug. 24, 1999, as discussed in the Declaration. The instant Office Action indicated that the IntraSwitch document, portions of which were previously submitted accompanying the Declaration under 37 C.F.R. §§ 1.131 and 1.147 filed on Jan 9, 2007, is sufficient to establish conception and reduction to practice of the claimed invention. *See, e.g.,* pages 5-6 of the instant Office Action. Applicant further notes that “(w)hen alleging that conception or a reduction to practice occurred prior to the effective date of the reference, the dates in the oath or declaration may be the actual dates or, if the applicant or patent owner does not desire to disclose his or her actual dates, he or she may merely allege that the acts referred to occurred prior to a specified date.” *See, M.P.E.P.* § 715.07(II). Thus, since the attached Declaration alleges reduction to practice, Applicant has chosen to redact the dates in Exhibits A and B. In view of the above, Applicant respectfully submits that the claimed invention is allowable over the cited references.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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By: 

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Attachments:

Declaration (§1.131) with Exhibits A and B